

PATENT

Atty. Docket No. 10010317-1

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/Joseph G. Swan/
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

MEHMET SAYAL, ET AL.

Serial No.: 10/066,238

Filed: January 30, 2002

For: TRADING PARTNER CONVERSATION
MANAGEMENT METHOD AND SYSTEM

Group Art Unit: 3693

Examiner: Jocelyn Greimel

Conf. No.: 2777

**PETITION TO TECHNOLOGY CENTER DIRECTOR
UNDER MPEP § 1002.02(c).**

Applicants hereby petition the Technology Center Director for the above-referenced application under MPEP § 1002.02(c), with respect to the decision of the Examiner mailed March 19, 2008, refusing Applicants' request to swear behind U.S. Patent 7,043,687 (Knauss) and thereby to withdraw Knauss as a prior-art reference.

As shown in the attached documents, the present invention was conceived prior to Knauss's filing date of December 21, 2001, and due diligence in filing the application was exercised from before Knauss's filing date until the application was actually filed.

In particular, the attached Declaration of Assignee shows that the present patent application was prepared by Eric Ho, as outside counsel to Hewlett-Packard. A marked-up initial draft of that patent application, which was sent from the first-named inventor (Mehmet Sayal) to Eric Ho on October 31, 2001 is attached hereto (as noted in the attached Declaration of Inventor). In addition, a redline showing changes from that draft to the present patent application also is attached hereto.

As shown in the attached redline, all of the inventive concepts already existed in the draft of October 31, 2001, which was prior to Knauss's filing date of December 21, 2001. At the same time, a number of modifications, including substantial additions of claims, took place before the application was actually filed. For example, outside counsel who was responsible for preparing the application, Eric Ho, met with at least the first-named inventor (Mehmet Sayal) on November 19, 2001, to discuss the patent application. See paragraph 4 of the attached Declaration of Inventor.

Moreover, as set forth in the attached Declaration of Assignee and the attached Declaration of Inventor, approvals had to be obtained first from all of the inventors, then from Hewlett-Packard's in-house attorney (Thomas Li) and then final approval of any changes made by Hewlett-Packard's in-house attorney had to be obtained from all of the inventors.

Paragraph 3 of the attached Declaration of Assignee notes that the process can take several weeks just from the time that Hewlett-Packard's in-house attorney receives a draft of the application. In addition, in the present case, all of this activity would have been taking place over the holidays, "during which, among other delays normally associated with the holiday season, Hewlett-Packard shuts down for at least one week."

In the present case, one of the inventors (the first named inventor, Mehmet Sayal) indicated his approval of a draft of the application on November 30, 2001. However, it is unclear whether the other inventors had approved at that point. In any event, even after all the inventors had approved, the application still would have been subject to review by Hewlett-Packard's in-house attorney, possible modification by outside counsel and then final approval by the inventors.

Given all of the activity that would have needed to occur, based on Hewlett-Packard's standard approval process, in order to effect the changes that were made from the early draft to the filed application, particularly in view of Hewlett-Packard's shutdown and other delays associated with the holidays and the end of the year (e.g., expected unavailabilities of various individuals), it is reasonable to assume that obtaining the signed declaration on January 28, 2002 (as shown in the Declaration of record), before filing the application on January 30, 2002, would have involved diligent efforts.

The Examiner summarily rejected Applicants' request, simply stating, "the affidavits do not equate to due diligence in filing the application from before Knauss's filing date until the application was actually filed." No explanation was provided. Based on the remarks set forth above, Applicants believe that appropriate diligence has been shown.

Accordingly, based on earlier conception, coupled with Applicants' diligence, withdrawal of Knauss as a prior-art reference is respectfully requested.

If there are any fees due in connection with the filing of the currently submitted papers that have not been accounted for in this paper or the accompanying papers, please charge the fees to Deposit Account No. 08-2025. If an extension of time under 37 C.F.R. 1.136 is required for the filing of any of the currently submitted papers and is not accounted for in this paper or the accompanying papers, such an extension is requested and the fee (or any underpayment thereof) should also be charged to the Deposit Account.

Dated: May 15, 2008

Respectfully submitted,
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